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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/773,136

02/04/2004

Yougandh Chitre

A04P1013

5083

36802 7590 04/05/2007
PACESETTER, INC.
15900 VALLEY VIEW COURT
SYLMAR, CA 91392-9221

EXAMINER

SCHAETZLE, KENNEDY

ART UNIT

PAPER NUMBER

3766

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/773,136

Applicant(s)

CHITRE ET AL.

Examiner

Kennedy Schaetzle

Art Unit

3766

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 15 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13, 15, 17 and 19 is/are allowed.
- 6) ☒ Claim(s) 1-12, 18 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 5, 6, 8, 9, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Pravorerov et al. (Pat. No. 4,273,137).

Regarding claim 1, Pravorerov et al. disclose a biocompatible, biostable, corrosion-resistant wire strand comprising a core (see Fig. 2) comprising a plurality of electrically conductive, low electrical resistance filaments 7 embedded in an electrically conductive matrix (stainless steel alloy tubes 6), and a low electrical resistance, substantially chemically inactive cladding (stainless steel alloy sheath 8) discrete from the matrix. The term "low electrical resistance" was considered, but deemed to be a relative term and encompassing of materials that conduct electricity when compared to insulator materials.

Regarding claim 6, note the use of titanium in the alloy of example II (col. 3, lines 9-15).

Regarding claim 11, note the use of palladium in example V of col. 3.

Regarding claim 12, the fiber with filaments is braided as discussed in col. 2, lines 54-60.

Claim Rejections - 35 USC § 103

3. Claims 3, 4, 7, 10, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pravorerov et al. (Pat. No. 4,273,137) in view of Verness.

Regarding claims 3 and 4, while Pravorerov et al. do not explicitly refer to the wire strand's manner of construction (DFT or DBS), such a limitation is considered to represent a product-by-process claim. The structure resulting from the process appears

to be identical to that of the applicants' invention. In any event, Verness teaches that DFT and DBS are well known and standard fabrication processes in the art for creating wires (col. 11, lines 1-13). Those of ordinary skill in the art would have considered their incorporation into the fabrication process of the Pravorerov et al. invention a matter of obvious manufacturing expediency lacking any specific direction by Pravorerov et al. against their use.

Regarding claim 7, while the plurality of filaments comprise silver, Pravorerov et al. do not discuss the use of MP35N in the construction of the matrix, but rather stainless steel (and cobalt alloy similar to MP35N). As is old and well-known in the industry, MP35N can be used in place of stainless steel as taught in the text abridging cols. 10 and 11 of Verness. To use MP35N in place of stainless steel for its widely recognized properties of durability, biocompatibility and relative inexpensive cost, would have been seen by those of ordinary skill to be an obvious materials choice in view of the teachings of Verness.

Regarding claim 10, while Pravorerov et al. does not explicitly discuss the percentage weight of filaments to core, this particular range of filament to core weight would have been suggested to one of ordinary skill in the art given that both inventions employ silver and, as argued above, MP35N, in wire strands used in implantable cardiac leads which require similar flexibilities, mechanical strengths and electrical properties. Those of ordinary skill in the art desiring a reasonably flexible, mechanically strong, and highly conductive lead would have considered the exact weight ratio to be a matter of obvious design with tradeoffs between cost and conductivity dictating the relative weight of precious metal used.

Regarding claim 18, comments made above in the rejection of similarly worded limitations apply here as well.

Regarding claim 20, Pravorerov et al. describes the plurality of filaments 6,7 as a braid 2.

Allowable Subject Matter

4. Claims 13, 15, 17 and 19 are allowed.

There does not appear to be a teaching in the art of record for modifying the invention of Pravoverov et al. to include the recited cardioverting and/or defibrillation coil comprising the recited wire strand. The strand of Pravoverov et al. is intended to remain within the insulative sheath 3.

Response to Arguments

5. Applicant's arguments filed January 4, 2007 have been fully considered but they are not persuasive.

The applicant's argument that Pravoverov et al. do not disclose a cladding discrete from the matrix is not agreed with. Pravoverov et al. clearly and explicitly recite in col. 2, lines 54-60 that a sheath 8 is provided to tightly wrap the braid 2 and prevent the tubes 6 from separating. A cladding in the form of a sheath that wraps around a core is plainly discrete from the core.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kennedy Schaetzle whose telephone number is 571 272-4954. The examiner can normally be reached on M-F from 9:30 -6:00.

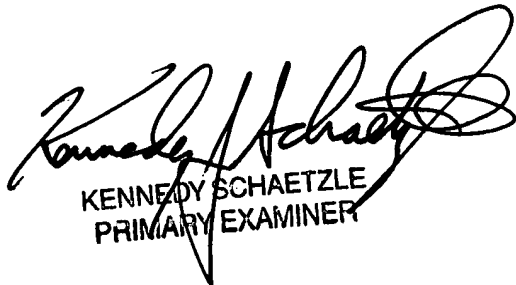
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Layno can be reached on M-F at 571 272-4949. The fax phone

Art Unit: 3766

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KJS
April 2, 2007



KENNEDY SCHAETZLE
PRIMARY EXAMINER